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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,289	11/21/2003	Thomas R. Lemmons	UV-1 Cont. 5	2133
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ROPES & GRAY LLP PATENT DOCKETING 39/361 1211 AVENUE OF THE AMERICAS NEW YORK, NY 10036-8704			EXAMINER ALAM, MUSHFIK II	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/719,289

Applicant(s)

LEMMONS ET AL.

Examiner

MUSHFIKH ALAM

Art Unit

2426

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 5/29/08

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/3/2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 2-53 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues the Examiner agreed that an amendment that clarifies that applicants' menu choices are displayed simultaneously would overcome the rejection over Youman.

In response to Applicant's argument, the Examiner agrees however, a new rejection is placed on the claims under the cited art Youman. The limitations are interpreted differently from previous Office Actions. Referring to claim 1, "display screen" is interpreted as a physical television screen or monitor. "First display" is interpreted as a 'display screen' (i.e. MENU screen of an EPG). Using this interpretation, fig. 6A of Youman reads on the limitations of claim 1.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 2-12, 14-25, 27-38, 40-51, 53 are rejected under 35 U.S.C. 102(e) as being anticipated by Youman et al (US 5629733).

Claim 2, Youman teaches a method for allowing a user to access interactive program guide features (TV guide, home theater, etc.) on a display screen (television) on which appears a first display (MENU screen, fig. 6A), the method comprising:

- receiving a menu input (mode key) from the user (i.e. through a remote control) (fig. 3; col. 10, lines 33-36);
- displaying, in response to the menu input (mode key press), an interactive program guide menu (fig. 6A) simultaneously with at least a substantial portion of the first display (i.e. EPG screen takes up entire television screen), wherein the interactive program guide menu simultaneously displays a plurality of menu choices corresponding to a plurality of display modes (TV guide mode, home theater mode, etc.) of the interactive program guide (figs. 6A, 15-17, 22; col. 11, lines 63-65; col. 15, lines 20-60); and

- displaying, in response to receiving a user selection of a particular menu choice (TV guide mode, home theater mode, etc.) from the plurality of menu choices, program guide information (figs. 15-17) that is associated with the particular menu choice (figs. 6A, 15-17).

Claim 3, Youman teaches the method of claim 2 wherein the plurality of menu choices comprises (MENU mode i.e. depressing the mode key one or two times from FLIP or BROWSE mode) a menu choice corresponding to a program listings display mode (col. 15, lines 20-24).

Claim 4, Youman teaches the method of claim 3 wherein displaying program guide information associated with the particular menu choice comprises displaying a plurality of interactive program listings in response to receiving a user selection of the menu choice (choosing TV guide from MENU mode) corresponding to the program listings display mode (figs 6, 18).

Claim 5, Youman teaches the method of claim 2 wherein the plurality of menu choices comprises a menu choice corresponding to a program search display mode (fig. 38F; col. 15, lines 51-67; col. 31, lines 52-col. 32, lines 16). *Figure 38A displays an alternative menu screen that may be accessed by depressing the mode key a specified number of times.*

Claim 6, Youman teaches the method of claim 5 wherein displaying program guide information associated with the particular menu choice comprises displaying, in

response to receiving a user selection of the menu choice corresponding to the program search display mode, an interactive program guide interface from which the user can initiate a restrictive search (based of alpha characters) of a database of program schedule data (fig. 38F; col 31, lines 52-col. 32, lines 16).

Claim 7, Youman teaches the method of claim 2 wherein displaying the plurality of menu choices comprises a menu choice (e.g. BY TIME) corresponding to a day to view display mode (figs. 38A, 38B). *A user may change the day by using the left and right scroll arrows shown in figure 38B.*

Claim 8, Youman teaches the method of claim 7 wherein displaying program guide information associated with the particular menu choice comprises displaying, in response to receiving a user selection of the menu choice corresponding to the day to view display mode (e.g. BY TIME), a plurality of selectable day options (by scrolling through days) each corresponding to a unique day for which program schedule information is available, wherein program schedule information corresponding to a particular day option (e.g. TODAY) is displayed in response to the particular day option being selected (fig. 38B).

Claim 9, Youman teaches the method of claim 2 wherein the plurality of menu choices (TV guide, home theater, customer service) comprises a menu choice (favorite

channel, fig. 7) corresponding to a favorite channel display mode (col. 25, lines 61-col. 26, lines 12).

Claim 10, Youman teaches the method of claim 9 wherein displaying program guide information associated with the particular menu choice comprises displaying, in response to receiving a user selection of the menu choice corresponding to the favorite channel display mode, an interactive program guide interface from which the user can select a favorite channel line-up (fig. 8 col. 25, lines 61-col. 26, lines 12).

Claim 11, Youman teaches the method of claim 2 wherein the first display (program signal) comprises video for a given television program and wherein displaying an interactive program guide menu comprises displaying the interactive program guide menu simultaneously with at least a substantial portion of the video for the given television program (fig. 5; col 11, lines 63-col 12, lines 11).

Claim 12, Youman teaches the method of claim 2 wherein the first display (program signal) comprises an interactive program guide display (FLIP, BROWSE, MENU overlay) and wherein displaying an interactive program guide menu comprises displaying the interactive program guide menu simultaneously with at least a substantial portion of the interactive program guide display (fig. 5, 6, 11).

Claim 14, Youman teaches the method of claim 2 further comprising displaying, in response to receiving from the user (i.e. through a remote control) (fig. 4) a user selection to view additional menu choices, new menu choices (customer service) in the interactive program guide menu in place of the displayed menu choices (messages) (replacing messages with customer service) (fig. 6; col. 25, lines 61-col. 26, lines 12).

Claims 15-25, and 27 are analyzed as apparatuses of claims 2-12, and 14.

Claims 28-38, and 40 are also analyzed as apparatuses of claims 2-12, and 14.

Claims 41-51, and 53 recite a machine readable medium to perform the steps of claims 2-12 and 14 above. It is inherent that Youman contains a computer-readable medium to perform the steps of claims 2-12 and 14 as noted above.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13, 26, 39, 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Youman et al. (US 5629733) in view of Hendricks (2005/0157217).

Claim 13, Youman is silent regarding the method of claim 2 further comprising:



- defining at a remote location operational parameters indicating default menu choices for the interactive program guide menu; and
- transmitting the operational parameters to user equipment; wherein displaying the interactive program guide menu comprises displaying the interactive program guide menu comprising the default menu choices.

Hendricks teaches the method further comprising:

- defining at a remote location (headend) operational parameters (menu driver access scheme) indicating default menu choices for the interactive program guide menu (p. [0014]); and
- transmitting the operational parameters to user equipment (subscribers); wherein displaying the interactive program guide menu comprises displaying the interactive program guide menu comprising the default menu choices (p. [0014]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided menu functionality created at the headend as taught by Hendricks to the system of Youman to allow the user to sequence through the various menus (p. [0014]).

Claim 26 is analyzed as an apparatus of claim 13.

Claim 39 is also analyzed as an apparatus of claim 13.

Claim 52 recites a machine readable medium to perform the steps of claim 13. It is inherent that Hendricks contains a computer-readable medium to perform them steps of claim 13 as noted above.

### ***Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUSHFIKH ALAM whose telephone number is (571)270-1710. The examiner can normally be reached on Mon-Fri: 8:30-18:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mushfikh Alam/  
Examiner, Art Unit 2426  
1/12/2009

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